

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**BASHAS', Inc., d/b/a BASHAS',
FOOD CITY, and A.J.'S FINE FOODS**

and

**Cases 28-CA-21435
28-CA-21501**

**UNITED FOOD AND COMMERCIAL
WORKERS UNION, LOCAL 99**

and

**Cases 28-CA-21590
28-CA-21592
28-CA-21639
28-CA-21640
28-CA-21646
28-CA-21676**

**UNITED FOOD AND COMMERCIAL
WORKERS INTERNATIONAL UNION**

**Cases 28-CA-21739
28-CA-21785
28-CA-21803**

**GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S
SECOND REQUEST FOR AN EXTENSION OF TIME TO FILE
EXCEPTIONS AND SUPPORTING BRIEF**

General Counsel opposes Respondent's Second Request for an Extension of Time to File Exceptions (Respondent's Motion), filed by Respondent on November 18, 2009. Respondent seeks an additional two weeks in which to file exceptions and supporting brief on the grounds that the additional time will afford the parties time to continue and exhaust settlement efforts which involve complex backpay issues. Respondent's Motion should be rejected in its entirety. The parties remain very far apart in terms of their respective positions regarding settlement and compliance with the Administrative Law Judge's recommended

order and, in any event, further settlement discussions, if any, will not prevent any party from preparing and filing their contemplated exceptions, cross-exceptions, and supporting briefs.

More specifically, on September 24, 2009, the Administrative Law Judge issued his Decision in this matter, finding that Respondent committed serious unfair labor practices in violation of Section 8(a)(1)(3) and (5) of the Act, and recommended that the baler operations unlawfully subcontracted by Respondent be restored, those employees laid off due to the subcontracting be reinstated and made whole, and that Respondent make whole four other discriminatees, post three separate Notices to Employees, and provide other specific remedies.

On October 8, 2009, Respondent filed with the Board a motion seeking an extension of time to file exception from October 22, 2009, to December 7, 2009. General Counsel opposed any extension greater than two weeks. On October 13, 2009, the Board, by its Associate Executive Secretary, issued an order granting a partial extension of time to file exceptions and brief to November 30, 2009. Respondent's request for yet another extension of time to file exceptions and a brief in support should be rejected.

Contrary to Respondent's assertions that it needs more time to file exceptions because of the complexity of the backpay issues involved in the settlement of this matter, Region 28 has provided Respondent with specific, current backpay information regarding all discriminatees described in the Administrative Law Judge's recommended order. Respondent has advised Region 28 that it is either unwilling or unable to provide certain remedies set forth in the Administrative Law Judge's recommended order. Settlement is not imminent, though General Counsel remains willing and available to enter into further discussions with Respondent regarding settlement terms and compliance with the recommended order;

however, there has been no showing that such discussions preclude or prevent any party from preparing and filing exceptions and a supporting brief. Moreover, even after the parties' filing of exceptions or cross-exceptions, as the case may be, General Counsel will be willing and available to engage in settlement and compliance discussions with Respondent.

In any event, the resolution of the unfair labor practices involved in this case should not be delayed by parties' settlement discussions, if any. There are approximately 35 discriminatees for whom remedies are provided by the Administrative Law Judge's recommended order. There is no legitimate basis for further delaying the instant administrative proceedings while the parties continue to engage in settlement discussions.

Based on the foregoing, it is respectfully submitted that Respondent's Motion should be denied in its entirety.

Dated in Phoenix, Arizona, this 20th day of November 2009.

/s/ Sandra L. Lyons
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CERTIFICATE OF SERVICE

I hereby certify that a copy of GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S SECOND REQUEST FOR AN EXTENSION OF TIME TO FILE EXCEPTIONS AND SUPPORTING BRIEF in BASHAS', INC., d/b/a BASHAS', FOOD CITY, and A.J.'S FINE FOODS, Cases 28-CA-21435 et al., was served via E-Gov, E-Filing, E-mail and by overnight delivery via Federal Express on this 20th day of November 2009, on the following:

Via E-Gov E-Filing:

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